

**53A-6-101. Title.**

This chapter is known as the "Educator Licensing and Professional Practices Act."

Repealed and Re-enacted by Chapter 108, 1999 General Session

**53A-6-102. Legislative findings on teacher quality -- Declaration of education as a profession.**

(1) (a) The Legislature acknowledges that education is perhaps the most important function of state and local governments, recognizing that the future success of our state and nation depend in large part upon the existence of a responsible and educated citizenry.

(b) The Legislature further acknowledges that the primary responsibility for the education of children within the state resides with their parents or guardians and that the role of state and local governments is to support and assist parents in fulfilling that responsibility.

(2) (a) The Legislature finds that:

(i) quality teaching is the basic building block of successful schools and, outside of home and family circumstances, the essential component of student achievement;

(ii) the high quality of teachers is absolutely essential to enhance student achievement and to assure educational excellence in each classroom in the state's public schools; and

(iii) the implementation of a comprehensive continuum of data-driven strategies regarding recruitment, preservice, licensure, induction, professional development, and evaluation is essential if the state and its citizens expect every classroom to be staffed by a skilled, caring, and effective teacher.

(b) In providing for the safe and effective performance of the function of educating Utah's children, the Legislature further finds it to be of critical importance that education, including instruction, administrative, and supervisory services, be recognized as a profession, and that those who are licensed or seek to become licensed and to serve as educators:

(i) meet high standards both as to qualifications and fitness for service as educators through quality recruitment and preservice programs before assuming their responsibilities in the schools;

(ii) maintain those standards in the performance of their duties while holding licenses, in large part through participating in induction and ongoing professional development programs focused on instructional improvement;

(iii) receive fair, systematic evaluations of their performance at school for the purpose of enhancing the quality of public education and student achievement; and

(iv) have access to a process for fair examination and review of allegations made against them and for the administration of appropriate sanctions against those found, in accordance with due process, to have failed to conduct themselves in a manner commensurate with their authority and responsibility to provide appropriate professional services to the children of the state.

Amended by Chapter 49, 2013 General Session

### **53A-6-103. Definitions.**

As used in this chapter:

(1) "Accredited institution" means an institution meeting the requirements of Section 53A-6-107.

(2) (a) "Alternative preparation program" means preparation for licensure in accordance with applicable law and rule through other than an approved preparation program.

(b) "Alternative preparation program" includes the competency-based licensing program described in Section 53A-6-104.5.

(3) "Ancillary requirement" means a requirement established by law or rule in addition to completion of an approved preparation program or alternative education program or establishment of eligibility under the NASDTEC Interstate Contract, and may include any of the following:

- (a) minimum grade point average;
- (b) standardized testing or assessment;
- (c) mentoring;
- (d) recency of professional preparation or experience;
- (e) graduation from an accredited institution; or
- (f) evidence relating to moral, ethical, physical, or mental fitness.

(4) "Approved preparation program" means a program for preparation of educational personnel offered through an accredited institution in Utah or in a state which is a party to a contract with Utah under the NASDTEC Interstate Contract and which, at the time the program was completed by the applicant:

(a) was approved by the governmental agency responsible for licensure of educators in the state in which the program was provided;

(b) satisfied requirements for licensure in the state in which the program was provided;

(c) required completion of a baccalaureate; and

(d) included a supervised field experience.

(5) "Board" means the Utah State Board of Education.

(6) "Certificate" means a license issued by a governmental jurisdiction outside the state.

(7) "Core academic subjects" means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

(8) "Educator" means:

(a) a person who holds a license;

(b) a teacher, counselor, administrator, librarian, or other person required, under rules of the board, to hold a license; or

(c) a person who is the subject of an allegation which has been received by the board or UPPAC and was, at the time noted in the allegation, a license holder or a person employed in a position requiring licensure.

(9) (a) "Endorsement" means a stipulation appended to a license setting forth the areas of practice to which the license applies.

(b) An endorsement shall be issued upon completion of a competency-based teacher preparation program from a regionally accredited university that meets state

content standards.

(10) "License" means an authorization issued by the board which permits the holder to serve in a professional capacity in the public schools. The five levels of licensure are:

(a) "letter of authorization," which is:

(i) a temporary license issued to a person who has not completed requirements for a competency-based, or level 1, 2, or 3 license, such as:

(A) a student teacher; or

(B) a person participating in an alternative preparation program; or

(ii) a license issued, pursuant to board rules, to a person who has achieved eminence, or has outstanding qualifications, in a field taught in public schools;

(b) "competency-based license" which is issued to a teacher based on the teacher's demonstrated teaching skills and abilities;

(c) "level 1 license," which is a license issued upon completion of:

(i) a competency-based teacher preparation program from a regionally accredited university; or

(ii) an approved preparation program or an alternative preparation program, or pursuant to an agreement under the NASDTEC Interstate Contract, to candidates who have also met all ancillary requirements established by law or rule;

(d) "level 2 license," which is a license issued after satisfaction of all requirements for a level 1 license as well as any additional requirements established by law or rule relating to professional preparation or experience; and

(e) "level 3 license," which is a license issued to an educator who holds a current Utah level 2 license and has also received, in the educator's field of practice, National Board certification or a doctorate from an accredited institution.

(11) "NASDTEC" means the National Association of State Directors of Teacher Education and Certification.

(12) "NASDTEC Interstate Contract" means the contract implementing Title 53A, Chapter 6, Part 2, Compact for Interstate Qualification of Educational Personnel, which is administered through NASDTEC.

(13) "National Board certification" means a current certificate issued by the National Board for Professional Teaching Standards.

(14) "Necessarily existent small school" means a school classified as a necessarily existent small school in accordance with Section 53A-17a-109.

(15) "Office" means the Utah State Office of Education.

(16) "Rule" means an administrative rule adopted by the board under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(17) "School" means a public or private entity which provides educational services to a minor child.

(18) "Small school district" means a school district with an enrollment of less than 5,000 students.

(19) "UPPAC" means the Utah Professional Practices Advisory Commission.

Amended by Chapter 382, 2008 General Session

**53A-6-104. Board licensure.**

- (1) (a) The board may issue licenses for educators.
- (b) A person employed in a position that requires licensure by the board shall hold the appropriate license.
- (2) (a) The board may by rule rank, endorse, or otherwise classify licenses and establish the criteria for obtaining and retaining licenses.
- (b) (i) The board shall make rules requiring participation in professional development activities or compliance with a school district professional development plan as provided in Subsection (4) in order for educators to retain their licenses.
- (ii) An educator who is enrolling in a course of study at an institution within the state system of higher education to satisfy the professional development requirements of Subsection (2)(b)(i) is exempt from tuition, except for a semester registration fee established by the State Board of Regents, if:
  - (A) the educator is enrolled on the basis of surplus space in the class after regularly enrolled students have been assigned and admitted to the class in accordance with regular procedures, normal teaching loads, and the institution's approved budget; and
  - (B) enrollments are determined by each institution under rules and guidelines established by the State Board of Regents in accordance with findings of fact that space is available for the educator's enrollment.
- (3) Except as provided in Subsection (4), unless suspended or revoked by the board, or surrendered by the educator:
  - (a) a letter of authorization is valid for one year, or a shorter period as specified by the board, subject to renewal by the board in accordance with board rules;
  - (b) a competency-based license remains valid;
  - (c) a level 1 license is valid for three years, subject to renewal by the board in accordance with board rules;
  - (d) a level 2 license is valid for five years, subject to renewal by the board in accordance with board rules; and
  - (e) a level 3 license is valid for seven years, subject to renewal by the board in accordance with board rules.
- (4) Unless suspended or revoked by the board, or surrendered by the educator, a level 1, level 2, level 3, or competency-based license shall remain valid if:
  - (a) the license holder is employed by a school district that has a comprehensive program to maintain and improve educators' skills in which performance standards, educator evaluation, and professional development are integrated; and
  - (b) the license holder complies with school or school district professional development requirements.

Amended by Chapter 315, 2003 General Session

**53A-6-104.1. Reinstatement of a license.**

- (1) An educator who previously held a license and whose license has expired may have the license reinstated by:
  - (a) filing an application with the board on the form prescribed by the board;
  - (b) paying the fee required by Section 53A-6-105; and
  - (c) submitting to a criminal background check as required by Section 53A-6-401.

(2) Upon successful completion of the criminal background check and verification that the applicant's previous license had not been revoked, suspended, or surrendered, the board shall reinstate the license.

(3) An educator whose license is reinstated may not be required to obtain professional development not required of other educators with the same number of years of experience, except as provided in Subsection (4).

(4) The principal of the school at which an educator whose license is reinstated is employed shall provide information and training, based on the educator's experience and education, that will assist the educator in performing the educator's assigned position.

(5) The procedures for reinstating a license as provided in this section do not apply to an educator's license that expires while the educator is employed in a position requiring the license.

Enacted by Chapter 145, 2008 General Session

**53A-6-104.5. Licensing by competency.**

(1) A competency-based license to teach may be issued based on the demonstrated competence of a teacher as provided in this section.

(2) A local school board or charter school may request, and the State Board of Education shall grant, upon receipt of documentation from the local school board or charter school verifying the person's qualifications as specified in this section, a competency-based license to a person who meets the qualifications specified in this section and Section 53A-6-401.

(3) A local school board or charter school may request a competency-based license if the candidate meets the following qualifications:

(a) a license candidate who teaches one or more core academic subjects in an elementary school shall:

(i) hold at least a bachelor's degree; and

(ii) have demonstrated, by passing a rigorous state test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum;

(b) a license candidate who teaches one or more core academic subjects in a middle or secondary school shall:

(i) hold at least a bachelor's degree; and

(ii) have demonstrated a high level of competency in each of the academic subjects in which the teacher teaches by:

(A) passing a rigorous state academic subject test in each of the academic subjects in which the teacher teaches; or

(B) successful completion, in each of the academic subjects in which the teacher teaches, of an academic major, a graduate degree, course work equivalent to an undergraduate academic major, or advanced certification or credentialing; or

(c) a license candidate who teaches subjects other than a core academic subject in an elementary, middle, or high school shall:

(i) hold a bachelor's degree, associate's degree, or skill certification; and

(ii) have skills, talents, or abilities, as evaluated by the employing entity, that

make the person suited for the teaching position.

(4) A school district or charter school:

(a) shall monitor and assess the performance of each teacher holding a competency-based license; and

(b) may recommend that the competency-based license holder's training and assessment be reviewed by the Utah State Office of Education for a level 1 license.

Amended by Chapter 19, 2004 General Session

**53A-6-105. Licensing fees -- Credit to subfund -- Payment of expenses.**

(1) The board shall levy a fee for each new, renewed, or reinstated license or endorsement in accordance with Section 63J-1-504.

(2) Fee payments are credited to the Professional Practices Restricted Subfund in the Uniform School Fund.

(3) The board shall pay the expenses of issuing licenses and of UPPAC operations, and the costs of collecting license fees from the restricted subfund.

(4) The office shall submit an annual report to the Legislature's Public Education Appropriations Subcommittee informing the Legislature about the fund, fees assessed and collected, and expenditures from the fund.

Amended by Chapter 183, 2009 General Session

**53A-6-106. Qualifications of applicants for licenses -- Changes in qualifications.**

(1) The board shall establish by rule the scholarship, training, and experience required of license applicants.

(2) (a) The board shall announce any increase in the requirements when made.

(b) An increase in requirements shall become effective not less than one year from the date of the announcement.

(3) The board may determine by examination or otherwise the qualifications of license applicants.

Repealed and Re-enacted by Chapter 108, 1999 General Session

**53A-6-107. Program approval.**

(1) The board shall establish by rule the standards which must be met by approved preparation programs and alternative preparation programs.

(2) Standards adopted by the board for approved preparation programs and alternative preparation programs shall meet or exceed generally recognized national standards for preparation of educators, such as those developed by the Interstate New Teacher Assessment and Support Consortium, the National Board for Professional Teaching Standards, and the National Council for the Accreditation of Teacher Education.

Repealed and Re-enacted by Chapter 108, 1999 General Session

**53A-6-108. Prohibition on use of degrees or credit from unapproved institutions.**

(1) An individual may not use a postsecondary degree or credit awarded by a postsecondary institution or program to gain a license, employment, or any other benefit within the public school system unless the institution or program was, at the time the degree or credit was awarded:

- (a) approved for the granting of the degree or credit by the board; or
- (b) accredited by an accrediting organization recognized by the board.

(2) The board may grant an exemption from Subsection (1) to an individual who shows good cause for the granting of the exemption.

Repealed and Re-enacted by Chapter 108, 1999 General Session

**53A-6-109. Substitute teachers.**

(1) A substitute teacher need not hold a license to teach, but school districts are encouraged to hire licensed personnel as substitutes when available.

(2) A person must submit to a background check under Section 53A-3-410 prior to employment as a substitute teacher.

(3) A teacher's position in the classroom may not be filled by unlicensed substitute teachers for more than a total of 20 days during any school year unless licensed personnel are not available.

(4) A person who is ineligible to hold a license for any reason other than professional preparation may not serve as a substitute teacher.

Repealed and Re-enacted by Chapter 108, 1999 General Session

**53A-6-110. Administrative/supervisory letters of authorization.**

(1) A local school board may request, and the State Board of Education may grant, a letter of authorization permitting a person with outstanding professional qualifications to serve in any position that requires a person to hold an administrative/supervisory license or certificate, including principal, assistant principal, associate principal, vice principal, assistant superintendent, administrative assistant, director, specialist, or other district position.

(2) The State Board of Education may grant a letter of authorization permitting a person with outstanding professional qualifications to serve in any position at the State Office of Education that requires a person to hold an administrative/supervisory license or certificate.

Enacted by Chapter 315, 2003 General Session

**53A-6-111. Teacher classifications.**

(1) As used in this section:

(a) "Associate teacher" means a person who does not currently hold a level 1, 2, or 3 license, but is permitted to teach in a public school under another authorization.

(b) "Teacher" means a person who currently holds a level 1, 2, or 3 license.

(2) Each school district and school shall identify and distinguish between

teachers and associate teachers, including using the appropriate title in all communication with parents, guardians, and members of the public.

(3) Lists of teachers and associate teachers shall be maintained at each school and shall be available for review by any person upon request.

Enacted by Chapter 46, 2004 General Session

**53A-6-113. Alternative preparation program -- Work experience requirement.**

An individual who is employed at least half time in a position for which a teacher's license is required pursuant to board rule, including a position in an online school or a school that uses digital technologies for instruction or blended learning, satisfies the work experience requirement for participation in an alternative preparation program.

Enacted by Chapter 417, 2014 General Session

**53A-6-201. Enactment of compact.**

The Compact for Interstate Qualification of Educational Personnel is hereby enacted into law and entered into with all other states legally joining therein.

Enacted by Chapter 2, 1988 General Session

**53A-6-202. Purpose and intent of compact -- Findings.**

(1) The states party to this compact, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession. It is the purpose of this compact to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

(2) The party states find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other states. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their states of origin, can increase the available educational resources. Participation in this compact can increase the availability of educational manpower.

Enacted by Chapter 2, 1988 General Session



**53A-6-203. Definitions.**

As used in this compact and contracts made pursuant to it:

(1) The words "educational personnel" mean persons who must meet requirements pursuant to state law as a condition of employment in educational programs.

(2) The words "designated state official" mean the education official of a state selected by that state to negotiate and enter into, on behalf of his state, contracts pursuant to this compact.

(3) The word "accept," or any variant thereof, means to recognize and give effect to one or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving state.

(4) The word "state" means a state, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.

(5) The words "originating state" mean a state, and the subdivision thereof, if any, whose determination that certain educational personnel are qualified to be employed for specific duties in schools is acceptable in accordance with the terms of a contract made pursuant to Section 53A-6-204.

(6) The words "receiving state" mean a state, and the subdivisions thereof, which accept educational personnel in accordance with the terms of a contract made under Section 53A-6-204.

Enacted by Chapter 2, 1988 General Session

**53A-6-204. Contracts for acceptance of educational personnel.**

(1) The designated state official of a party state may make one or more contracts on behalf of his state with one or more other party states providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and binding on the states whose designated state officials enter into it, and the subdivisions of those states, with the same force and effect as if incorporated in this compact. A designated state official may enter into a contract pursuant to this section only with states in which he finds that there are programs of education, certification standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in his own state.

(2) Any such contract shall provide for:

(a) its duration;

(b) the criteria to be applied by an originating state in qualifying educational personnel for acceptance by a receiving state;

(c) such waivers, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards; and

(d) any other necessary matters.

(3) No contract made pursuant to this compact shall be for a term longer than five years but any such contract may be renewed for like or lesser periods.

(4) Any contract dealing with acceptance of educational personnel on the basis

of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this compact shall require acceptance by a receiving state of any persons qualified because of successful completion of a program prior to January 1, 1954.

(5) The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving state.

(6) A contract committee composed of the designated state officials of the contracting states or their representatives shall keep the contract under continuous review, study means of improving its administration, and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting states.

Enacted by Chapter 2, 1988 General Session

**53A-6-205. Effect of compact on other state laws and regulations.**

(1) Nothing in this compact shall be construed to repeal or otherwise modify any law or regulation of a party state relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that state.

(2) To the extent that contracts made pursuant to this compact deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

Enacted by Chapter 2, 1988 General Session

**53A-6-206. Agreement by party states.**

The party states agree that:

(1) They will, so far as practicable, prefer the making of multi-lateral contracts pursuant to Section 53A-6-204 of this compact.

(2) They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations, and associations interested in certification and other elements of educational personnel qualification.

Enacted by Chapter 2, 1988 General Session

**53A-6-207. Evaluation of compact.**

The designated state officials of any party states may meet from time to time as a group to evaluate progress under the compact, and to formulate recommendations for changes.

Enacted by Chapter 2, 1988 General Session

**53A-6-208. Scope of compact.**

Nothing in this compact shall be construed to prevent or inhibit other arrangements or practices of any party state or states to facilitate the interchange of educational personnel.

Enacted by Chapter 2, 1988 General Session

**53A-6-209. Effective date -- Withdrawal from compact -- Continuing obligations.**

(1) This compact shall become effective when enacted into law by two states. Thereafter it shall become effective as to any state upon its enactment of this compact.

(2) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states.

(3) No withdrawal shall relieve the withdrawing state of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

Enacted by Chapter 2, 1988 General Session

**53A-6-210. Construction of compact.**

This compact shall be liberally construed so as to effectuate the purposes of it. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact is held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

Enacted by Chapter 2, 1988 General Session

**53A-6-211. Superintendent of public instruction as designated state official.**

The designated state official for the state of Utah is the superintendent of public instruction.

Enacted by Chapter 2, 1988 General Session

**53A-6-301. Utah Professional Practices Advisory Commission.**

The Utah Professional Practices Advisory Commission, UPPAC, is established

to assist and advise the board in matters relating to the professional practices of educators.

Repealed and Re-enacted by Chapter 108, 1999 General Session

**53A-6-302. UPPAC members -- Executive secretary.**

(1) UPPAC shall consist of a nonvoting executive secretary and 11 voting members, nine of whom shall be licensed educators in good standing, and two of whom shall be members nominated by the education organization within the state that has the largest membership of parents of students and teachers.

(2) Six of the voting members shall be persons whose primary responsibility is teaching.

(3) (a) The state superintendent of public instruction shall appoint an employee of the office to serve as executive secretary.

(b) Voting members are appointed by the superintendent as provided under Section 53A-6-303.

(4) The office shall provide staff support for UPPAC activities.

Repealed and Re-enacted by Chapter 108, 1999 General Session

**53A-6-303. Nominations -- Appointment of commission members -- Reappointments.**

(1) (a) The board shall adopt rules establishing procedures for nominating and appointing individuals to voting membership on UPPAC.

(b) Nomination petitions must be filed with the state superintendent prior to June 16 of the year of appointment.

(c) A nominee for appointment as a member of UPPAC as an educator must have been employed in the representative class in the Utah public school system or a private school accredited by the board during the three years immediately preceding the date of appointment.

(2) The state superintendent of public instruction shall appoint the members of the commission.

(3) Appointments begin July 1 and are for terms of three years and until a successor is appointed.

(4) Terms of office are staggered so that approximately 1/3 of UPPAC members are appointed annually.

(5) A member may not serve more than two terms.

Enacted by Chapter 108, 1999 General Session

**53A-6-304. Filling of vacancies.**

(1) A UPPAC vacancy occurs if a member resigns, fails to attend three or more meetings during a calendar year, or no longer meets the requirements for nomination and appointment.

(2) If a vacancy occurs, the state superintendent shall appoint a successor to fill the unexpired term.

(3) If the superintendent does not fill the vacancy within 60 days, the board shall make the appointment.

(4) Nominations to fill vacancies are submitted to the superintendent in accordance with procedures established under rules of the board.

Enacted by Chapter 108, 1999 General Session

**53A-6-305. Meetings and expenses of UPPAC members.**

(1) UPPAC shall meet at least quarterly and at the call of the chair or of a majority of the members.

(2) Members of UPPAC serve without compensation but are allowed reimbursement for actual and necessary expenses under the rules of the Division of Finance.

(3) The board shall pay reimbursement to UPPAC members out of the Professional Practices Restricted Subfund in the Uniform School Fund.

Enacted by Chapter 108, 1999 General Session

**53A-6-306. Purpose, powers, and duties of UPPAC.**

(1) UPPAC shall:

(a) adopt rules consistent with applicable law and board rules to carry out its responsibilities under this chapter;

(b) make recommendations to the board and professional organizations of educators:

(i) concerning standards of professional performance, competence, and ethical conduct for persons holding licenses issued by the board; and

(ii) for the improvement of the education profession;

(c) establish procedures for receiving and acting upon reports or allegations regarding immoral, unprofessional, or incompetent conduct, unfitness for duty, or other violations of standards of ethical conduct, performance, or professional competence;

(d) investigate any allegation of sexual abuse of a student or a minor by an educator; and

(e) establish the manner in which hearings are conducted and reported, and recommendations are submitted to the board for its action.

(2) (a) UPPAC may conduct or authorize investigations relating to any matter before UPPAC.

(b) Those investigations shall be independent of and separate from any criminal investigation.

(c) In conducting an investigation UPPAC or an investigator operating under UPPAC authorization may:

(i) administer oaths and issue subpoenas which may be enforced through the state district courts;

(ii) receive any evidence related to an alleged offense, including sealed or expunged records released to the board under Section 77-40-109; and

(iii) where reasonable cause exists, initiate a criminal background check on a license holder.

(d) (i) A license holder shall receive written notice if a fingerprint check is required as a part of the background check.

(ii) Fingerprints of the individual shall be taken, and the Law Enforcement and Technical Services Division of the Department of Public Safety shall release the individual's full record, as shown on state, regional, and national records, to UPPAC.

(iii) UPPAC shall pay the cost of the background check except as provided under Section 53A-6-401, and the money collected shall be credited to the Law Enforcement and Technical Services Division to offset its expenses.

(3) UPPAC is entitled to a rebuttable evidentiary presumption that a person has committed a sexual offense against a minor child if the person has:

(a) after having had a reasonable opportunity to contest the allegation, been found pursuant to a criminal, civil, or administrative action to have committed a sexual offense against a minor child;

(b) pled guilty to a reduced charge in the face of a charge of having committed a sexual offense against a minor child, entered a plea of no contest, entered into a plea in abeyance resulting in subsequent dismissal of such a charge, or failed to defend himself against such a charge when given reasonable opportunity to do so; or

(c) voluntarily surrendered a license or certificate or allowed a license or certificate to lapse in the face of a charge of having committed a sexual offense against a minor child.

(4) In resolving a complaint UPPAC may:

(a) dismiss the complaint;

(b) issue a warning or reprimand;

(c) issue an order of probation requiring an educator to comply with specific conditions in order to retain a license;

(d) enter into a written agreement requiring an educator to comply with certain conditions;

(e) recommend board action such as revocation or suspension of a license or restriction or prohibition of licensure; or

(f) take other appropriate action.

(5) UPPAC may not:

(a) participate as a party in any dispute relating to negotiations between a school district and its educators;

(b) take action against an educator without giving the individual an opportunity for a fair hearing to contest the allegations upon which the action would be based; or

(c) take action against an educator unless it finds that the action or the failure of the educator to act impairs the educator's ability to perform the functions of the educator's position.

Amended by Chapter 283, 2010 General Session

**53A-6-307. Powers of state board not abrogated.**

Nothing in this chapter limits or abrogates the power of the board to issue or revoke licenses, hold hearings, or otherwise carry out its functions.

Enacted by Chapter 108, 1999 General Session

**53A-6-401. Background checks.**

(1) (a) A license applicant shall submit to a background check as a condition for licensing.

(b) As used in this section, licensing includes reinstatement of a lapsed, suspended, or revoked license.

(2) Where reasonable cause exists, the State Board of Education may require an educator to submit to a criminal background check.

(3) (a) The office shall establish a procedure for obtaining and evaluating relevant information concerning license applicants, including fingerprinting the applicant and submitting the prints to the Criminal Investigations and Technical Services Division of the Department of Public Safety for checking against applicable state, regional, and national criminal records files.

(b) The Criminal Investigations and Technical Services Division shall release to the office all information received in response to the office's request.

(c) The Criminal Investigations and Technical Services Division shall maintain a separate file of fingerprints submitted under Subsection (3)(a) and notify the office when a new entry is made against a person whose fingerprints are held in the file regarding any matters involving an alleged:

- (i) sexual offense;
- (ii) drug-related offense;
- (iii) alcohol-related offense; or
- (iv) offense against the person under Title 76, Chapter 5, Offenses Against the Person.

(d) The cost of maintaining the separate file shall be paid by the office from fees charged to those submitting fingerprints.

(4) An applicant or educator shall have an opportunity to respond to any information received by the office as a result of the background check.

(5) In preparing recommendations concerning licensing for submission to the board, the office shall consider only the following matters obtained through fingerprint checks to the extent that they are relevant to the license sought by the applicant or held by the educator:

- (a) convictions, including pleas in abeyance;
- (b) any matters involving an alleged sexual offense;
- (c) any matters involving an alleged felony or class A misdemeanor drug offense;
- (d) any matters involving an alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person;
- (e) any matters involving a felony;
- (f) any matters involving a class A misdemeanor property offense alleged to have occurred within the previous three years; and
- (g) any matters involving any other type of criminal offense, if more than one occurrence of the same type of offense is alleged to have taken place within the previous eight years.

(6) If a recommendation is made for denial, suspension, or revocation of licensure because of information obtained through a background check, the person shall receive written notice of the reasons for the recommendation and have an

opportunity to respond in accordance with procedures set forth under board rules.

(7) Information obtained under this section is confidential and may only be disclosed as provided in this part.

(8) The applicant shall pay the costs of conducting the background check required pursuant to Subsection (1).

(9) This section applies to matters occurring both before and after the effective date of this section.

Amended by Chapter 362, 2010 General Session

**53A-6-402. Evaluation information on current or prospective school employees -- Notice to employee -- Exemption from liability.**

(1) (a) The office's administrator of teacher licensing may provide the appropriate administrator of a public or private school or of an agency outside the state which is responsible for licensing or certification of educators with any recommendation or other information possessed by the office which has significance in evaluating the employment or license of a current or prospective school employee, license holder, or applicant for licensing.

(b) Information supplied under Subsection (1)(a) may include the complete record of a hearing or the investigative report for matters which:

- (i) the educator has had an opportunity to contest; and
- (ii) did not proceed to a hearing.

(2) At the request of the office's administrator of teacher licensing, an administrator of a public school or school district shall, and an administrator of a private school may, provide any recommendation or other information possessed by the school or school district which has significance in evaluating the employment or licensure of a current or prospective school employee, license holder, or applicant for licensing.

(3) If a decision is made to deny licensure, to not hire a prospective employee, or to take action against a current employee or educator based upon information provided under this section, the affected individual shall receive notice of the information and be given an opportunity to respond to the information.

(4) A person who, in good faith, provides a recommendation or discloses or receives information under this section is exempt from civil and criminal liability relating to that recommendation, receipt, or disclosure.

(5) For purposes of this section, "employee" includes a volunteer.

Repealed and Re-enacted by Chapter 108, 1999 General Session

**53A-6-403. Office tie-in with the Criminal Investigations and Technical Services Division.**

(1) The office shall:

(a) be an online terminal agency with the Department of Public Safety's Criminal Investigations and Technical Services Division under Section 53-10-108; and

(b) provide relevant information concerning current or prospective employees or volunteers upon request to other school officials as provided in Section 53A-6-402.

(2) The cost of the online service shall be borne by the entity making the inquiry,



using funds available to the entity, which may include funds authorized under Section 53A-6-401.

Enacted by Chapter 108, 1999 General Session

**53A-6-404. Certification in other jurisdictions -- Impact on licensing in Utah.**

(1) An applicant for a license, renewal of a license, or reinstatement of a license shall provide the administrator of teacher licensing with an affidavit, stating under oath the current status of any certificate, license, or other authorization required for a professional position in education, which the applicant holds or has held in any other jurisdiction.

(2) An applicant for a license who has held a teacher's license in any other jurisdiction or who graduated from an institution of higher education in another state shall also provide the administrator of teacher licensing with:

(a) a complete listing of the higher education institutions attended by the applicant, whether the applicant's enrollment or eligibility for completion of a program was terminated by the institution, and, if so, the reasons for termination;

(b) a complete list of prior school employers; and

(c) a release on a form provided by the administrator permitting the office to obtain records from other jurisdictions and from institutions of higher education attended by the applicant, including expunged or otherwise protected records, relating to any offense described substantially in the same language as in Subsection 53A-6-401(5).

(3) If the applicant's certificate, license, or authorization as an educator in any other jurisdiction is under investigation, has expired or been surrendered, suspended or revoked, or is currently not valid for any other reason, the office may not grant the requested license, renewal, or reinstatement until it has received confirmation from the administrator of professional certification in that jurisdiction that the applicant would be eligible for certification or licensure in that jurisdiction.

(4) The office may not withhold a license for the sole reason that the applicant would be ineligible for certification, licensure, or authorization in the jurisdiction referred to in Subsection (3) because of failure to meet current requirements in that jurisdiction relating to education, time in service, or residence.

Amended by Chapter 103, 2000 General Session

**53A-6-405. Denial of license.**

(1) The board may refuse to issue a license to any person for good cause shown, including any person who, after having had a reasonable opportunity to contest the allegation, has been found pursuant to a criminal, civil, or administrative action to have exhibited behavior evidencing unfitness for duty, including behavior which would, had the person been an educator, have been considered to be immoral, unprofessional, or incompetent conduct, or a violation of standards of ethical conduct, performance, or professional competence.

(2) (a) Upon receipt of findings and recommendations from UPPAC, including

the findings and recommendations, if any, of a hearing requested under Subsection (4), the board may issue a permanent ban on licensure of any person who has committed a sexual offense against a minor child.

(b) A permanent ban issued under this Subsection (2) is not subject to further review by UPPAC.

(3) A person ineligible for licensure under Subsection (2) may not be employed or permitted to volunteer services in any position in a public or private school where the person would be in close proximity to minor children or be permitted or required to interact with a minor child.

(4) (a) A person denied licensure or employment under this section may, within 30 days of receipt of the denial and notice of rights of appeal, request a hearing before UPPAC to review and respond to all evidence upon which the denial was based.

(b) UPPAC shall prepare findings and recommendations for the board on any hearing held under Subsection (4)(a).

Enacted by Chapter 108, 1999 General Session

**53A-6-501. Disciplinary action against educator.**

(1) (a) The board shall take appropriate action against a person who is, or at the time of an alleged offense was, the holder of a license, and:

(i) who, after having had a reasonable opportunity to contest the allegation, has been found pursuant to a criminal, civil, or administrative action to have exhibited behavior evidencing unfitness for duty, including immoral, unprofessional, or incompetent conduct, or other violation of standards of ethical conduct, performance, or professional competence; or

(ii) who has been alleged to have exhibited such behavior or committed such a violation.

(b) Prior to taking action based upon an allegation or the decision of an administrative body other than UPPAC, the board shall direct UPPAC to review the allegations and any related administrative action and provide findings and recommendations to the board.

(c) No adverse recommendation may be made without giving the accused person an opportunity for a hearing.

(d) The board's action may include:

(i) revocation or suspension of a license;

(ii) restriction or prohibition of recertification;

(iii) a warning or reprimand;

(iv) required participation in and satisfactory completion of a rehabilitation or remediation program; or

(v) other action which the board finds to be appropriate after a review of the UPPAC findings and recommendations.

(e) The license holder is responsible for the costs of rehabilitation or remediation required under this section.

(2) (a) Upon receipt of findings or recommendations from UPPAC, the board shall permanently revoke the license of a person who:

(i) is convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual

Offenses, against a minor child;

(ii) engages in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is a minor; or

(iii) engages in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is:

(A) not a minor; and

(B) enrolled in a school where the person is employed.

(b) Upon receipt of findings or recommendation from UPPAC, the board may permanently revoke the license of a person who has exhibited other behavior which the board finds to be irremediable.

Amended by Chapter 320, 2011 General Session

**53A-6-502. Mandatory reporting of physical or sexual abuse of students.**

(1) For purposes of this section, "educator" means, in addition to a person included under Section 53A-6-103, a person, including a volunteer or temporary employee, who at the time of an alleged offense was performing a function in a private school for which a license would be required in a public school.

(2) In addition to any duty to report suspected cases of child abuse or neglect under Section 62A-4a-403, an educator who has reasonable cause to believe that a student may have been physically or sexually abused by a school employee shall immediately report the belief and all other relevant information to the school principal, superintendent, or to the office.

(3) A school administrator who has received a report under Subsection (2) or who otherwise has reasonable cause to believe that a student may have been physically or sexually abused by an educator shall immediately report that information to the office.

(4) Failure to comply with Subsection (2) or (3) shall be considered unprofessional conduct.

(5) A person who makes a report under this section in good faith shall be immune from civil or criminal liability that might otherwise arise by reason of that report.

Amended by Chapter 315, 2003 General Session

**53A-6-503. Reimbursement of legal fees and costs to educators.**

(1) As used in this section:

(a) "Action" means any action, except those referred to in Section 52-6-201, brought against an educator by an individual or entity other than:

(i) the entity who licenses the educator; and

(ii) the school district that employs the educator or employed the educator at the time of the alleged act or omission.

(b) "Educator" means an individual who holds or is required to hold a license under this chapter and is employed by a school district located within the state.

(c) "School district" includes the Schools for the Deaf and the Blind and the state's applied technology centers.

(2) Except as otherwise provided in Section 52-6-201, an educator is entitled to

recover reasonable attorneys' fees and costs incurred in the educator's defense against an individual or entity who initiates an action against the educator if:

(a) the action is brought for any act or omission of the educator during the performance of the educator's duties within the scope of the educator's employment; and

(b) it is dismissed or results in findings favorable to the educator.

(3) An educator who recovers under this section is also entitled to recover reasonable attorneys' fees and costs necessarily incurred by the educator in recovering the attorneys' fees and costs allowed under Subsection (2).

Amended by Chapter 382, 2008 General Session

**53A-6-601. Definition.**

As used in this part "hearing" means a proceeding held in accordance with generally accepted principles of due process and administrative law in which definite issues of fact or of law are tried before a hearing body, and in which proceeding evidence is presented and witnesses heard, and in which the party against whom the proceedings are held has a right to:

(1) appear with or without counsel to present evidence, confront and cross-examine witnesses, or subpoena witnesses; and

(2) obtain a decision based solely upon evidence presented to the hearing body in the presence of both parties or representatives of both parties, recognizing that presence is satisfied if a party has been given a reasonable opportunity to attend, even if the party fails to do so.

Enacted by Chapter 108, 1999 General Session

**53A-6-602. Designation of hearing officer or panel -- Review of findings.**

(1) UPPAC or a state or local school board charged with responsibility for conducting a hearing may conduct the hearing itself or appoint a hearing officer or panel to conduct the hearing and make recommendations concerning findings.

(2) UPPAC or the school board shall review the record of the hearing and the recommendations, and may obtain and review, in the presence of the parties or their representatives, additional relevant information, prior to issuing official findings.

(3) UPPAC shall provide a panel of its members to serve as fact finders in a hearing at the request of the educator who is the subject of the hearing.

Enacted by Chapter 108, 1999 General Session

**53A-6-603. Administering of oaths -- Issuance of subpoenas.**

(1) UPPAC or a state or local school board charged with responsibility for conducting an investigation or a hearing under this chapter may administer oaths and issue subpoenas in connection with the investigation or hearing.

(2) If a hearing is before a hearing officer or panel, the hearing officer or panel may administer oaths, and the appointing body may issue subpoenas upon the request of the hearing officer or panel.

(3) Subpoenas shall be enforced upon the petition of the issuing body by the district court in the jurisdiction where the subpoena was issued, in the same manner as subpoenas issued by the court.

Enacted by Chapter 108, 1999 General Session

**53A-6-604. Rules for conducting hearings -- Standard of proof.**

(1) The board, each local school board, and UPPAC shall each adopt rules for the conduct of hearings to ensure that requirements of due process are met.

(2) An accused party shall be provided not less than 15 days before a hearing with:

(a) notice of the hearing;  
(b) the law, rule, or policy alleged to have been violated;  
(c) sufficient information about the allegations and the evidence to be presented in support of the allegations to permit the accused party to prepare a meaningful defense; and

(d) a copy of the rules under which the hearing will be conducted.

(3) If an accused party fails to request a hearing within 30 days after written notice is sent to the party's address as shown on the records of the local board, for actions taken under the auspices of a local board, or on the records of the office, for actions taken under the auspices of UPPAC or the state board, then the accused party shall be considered to have waived the right to a hearing and the action may proceed without further delay.

(4) Hearing fact finders shall use the preponderance of evidence standard in deciding all questions unless a higher standard is required by law.

(5) Unless otherwise provided in Title 53A, the decisions of state and local boards are final determinations under this section, appealable to the appropriate court for review.

Enacted by Chapter 108, 1999 General Session

**53A-6-801. Definition.**

As used in this part, "paraeducator" means a school employee who:

(1) delivers instruction under the direct supervision of a teacher; and  
(2) works in an area where there is a shortage of qualified teachers, such as special education, Title I, ESL, reading remediation, math, or science.

Enacted by Chapter 144, 2008 General Session

**53A-6-802. Paraeducator to Teacher Scholarship Program.**

(1) The Paraeducator to Teacher Scholarship Program is created to award scholarships to paraeducators for education and training to become licensed teachers.

(2) The State Board of Education shall use money appropriated for the Paraeducator to Teacher Scholarship Program to award scholarships of up to \$5,000 to paraeducators employed by school districts and charter schools who are pursuing an associate's degree or bachelor's degree program to become a licensed teacher.

- (3) A paraeducator is eligible to receive a scholarship if:
- (a) the paraeducator is employed by a school district or charter school;
  - (b) is admitted to, or has made an application to, an associate's degree program or bachelor's degree program that will prepare the paraeducator for teacher licensure; and
  - (c) the principal at the school where the paraeducator is employed has nominated the paraeducator for a scholarship.
- (4) (a) The State Board of Education shall establish a committee to select scholarship recipients from nominations submitted by school principals.
- (b) The committee shall include representatives of the State Board of Education, State Board of Regents, and the general public, excluding school district and charter school employees.
- (c) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
- (i) Section 63A-3-106;
  - (ii) Section 63A-3-107; and
  - (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (d) The committee shall select scholarship recipients based on the following criteria:
- (i) test scores, grades, or other evidence demonstrating the applicant's ability to successfully complete a teacher education program; and
  - (ii) the applicant's record of success as a paraeducator.
- (5) The maximum scholarship amount is \$5,000.
- (6) Scholarship money may only be used to pay for tuition costs:
- (a) of:
    - (i) an associate's degree program that fulfills credit requirements for the first two years of a bachelor's degree program leading to teacher licensure; or
    - (ii) the first two years of a bachelor's degree program leading to teacher licensure; and
  - (b) at a higher education institution:
    - (i) located in Utah; and
    - (ii) accredited by the Northwest Commission on Colleges and Universities.
- (7) A scholarship recipient must be continuously employed as a paraeducator by a school district or charter school while pursuing a degree using scholarship money.
- (8) The State Board of Education shall make rules in accordance with this section and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the Paraeducator to Teacher Scholarship Program, including rules establishing:
- (a) scholarship application procedures;
  - (b) the number of, and qualifications for, committee members who select scholarship recipients; and
  - (c) procedures for distributing scholarship money.

Amended by Chapter 286, 2010 General Session

**53A-6-901. Grants for math teacher training programs.**

(1) If the state obtains matching funds of equal sums from private contributors, the board may award grants to institutions of higher education or nonprofit educational organizations for programs that provide mentoring and training leading to a secondary education license with an endorsement in mathematics for an individual who:

- (a) is not a teacher in a public or private school;
- (b) does not have a teaching license;
- (c) has a bachelor's degree or higher; and
- (d) demonstrates a high level of mathematics competency by:
  - (i) successfully completing substantial course work in mathematics; and
  - (ii) passing a mathematics content exam.

(2) (a) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish criteria for awarding grants under this section.

(b) In awarding grants, the board shall consider the amount or percent of matching funds provided by the grant recipient.

Enacted by Chapter 287, 2012 General Session